

## **Remarks/Arguments**

Prior to the present amendment, Claims 39-51 were pending in this application. Applicants have canceled Claims 39-43 and amended Claim 50 in order to expedite prosecution without acquiescence to any rejections and without prejudice to filing a continuation/divisional/continuation-in-part application directed to the canceled subject matter. Applicants believe that the current amendments place all claims in *prima facie* condition for allowance. Accordingly, the consideration and entry of the present amendment is respectfully requested.

### **I. Claim Rejections Under 35 U.S.C. § 112, First Paragraph (Enablement)**

Claims 39-43 remain rejected under 35 U.S.C. § 112, first paragraph, allegedly because one skilled in the art would not know how to use the claimed invention since the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility. (Page 3 of the instant Office Action).

Applicants maintain for the reasons previously set forth in earlier responses that enablement of the claimed polypeptides has been achieved. Applicants submit that the specification provides ample guidance to allow the skilled artisan to make and use those variant PRO335 polypeptides that are useful in the treatment of conditions such as, e.g., viral infections and cancer, and further, one skilled in the art would know how to use these polypeptides without undue experimentation. Accordingly, Appellants submit that the instant specification and the MLR assay suffices to provide enablement for the claimed subject matter, without undue experimentation.

In order to expedite prosecution, Applicants have canceled Claims 39-43 and amended Claim 50 to depend from Claim 44 without acquiescence to any rejections and without prejudice to filing a continuation application directed to the canceled subject matter.

Withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, is respectfully requested.

### **II. Claim Rejections Under 35 U.S.C. § 112, First Paragraph (Written Description)**

Claims 39-43, 50 and 51 remain rejected under 35 U.S.C. § 112, first paragraph, allegedly “as containing subject matter which was not described in the specification in such a way as to

reasonably convey to one skilled in the relevant art that the inventor(s),....had possession of the claimed invention.” (Page 8 of the instant Office Action).

Applicants maintain for the reasons previously set forth in earlier responses that a description of the claimed genus has been achieved. However, in order to expedite prosecution, Applicants have canceled Claims 39-43 and amended Claim 50 to depend from Claim 44 without acquiescence to any rejections and without prejudice to filing a continuation application directed to the canceled subject matter.

Cancellation of Claims 39-43 and amendment of the claim dependency of Claim 50 renders this rejection moot. Therefore, withdrawal of the written description rejection under 35 U.S.C. §112, first paragraph, is respectfully requested.

**CONCLUSION**

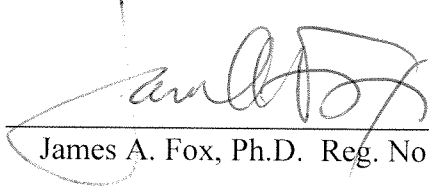
All claims pending in this application are believed to be in *prima facie* condition for allowance, and an early action to that effect is respectfully solicited.

Please charge any additional fees, including any additional fees for extension of time, or credit overpayment to Deposit Account No. 07-1700 (Attorney Docket No.: **123851-181890 (39780-1618P2C46)**). Please direct any calls in connection with this application to the undersigned at the number provided below.

Respectfully submitted,

Date: August 18, 2008

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